

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

WILLIAM E. SMITH,

Plaintiff,

v.

CIVIL ACTION NO. 5:07-cv-00493

MATT J. JARVIS and
THE MOUNT HOPE POLICE DEPT.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Defendant Matt Jarvis's Motion to Dismiss for Failure to Comply With the Court's Discovery Order [Docket 34]. By Standing Order entered on August 1, 2006, and filed in this case on August 10, 2007, this action was referred to United States Magistrate Judge Mary E. Stanley for submission of proposed findings and a recommendation (PF&R). On August 29, 2008, this Court adopted Magistrate Judge Stanley's recommendation that the Court deny Defendant Mount Hope Police Department's motion to dismiss and allow the matter to proceed on the merits. The Court then referred the matter back to Magistrate Judge Stanley for further proceedings. Defendant Jarvis filed his motion to dismiss on November 26, 2008, on the grounds that Plaintiff failed to respond to Defendants' discovery requests as ordered by Magistrate Judge Stanley. Magistrate Judge Stanley filed her PF&R on December 15, 2008, recommending that the Court **GRANT** the Motion to Dismiss [Docket 34] and strike the case from the docket.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the most recent PF&R were due in this case by January 7, 2009. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the recommendation contained in the PF&R [Docket 36], and **GRANTS** Defendant Matt Jarvis's Motion to Dismiss [Docket 34]. A separate Judgment Order will enter this day implementing the rulings contained herein.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Memorandum Opinion and Order to counsel of record and any unrepresented party.

ENTER: April 8, 2009


THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE